

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13280 of C and W.P. Investments, Inc., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Sub-section 6101.3) to use the basement, first and second floors of the subject premises as flat in a C-M-3 District at the premises 30 New York Avenue, N.E., (Square 670, Lot 24).

HEARING DATE: July 16, 1980  
DECISION DATE: September 3, 1980

FINDINGS OF FACT:

1. The subject property is located in a C-M-3 District on the north side of New York Avenue between North Capitol Street and O Street, N.E.
2. The C-M-3 District which includes the subject site covers a broad area between North Capitol and 1st Street, N.E., extending from G Street all the way up to Florida Avenue.
3. All of the industrially zoned area described above is used for commercial or industrial purposes, with the exception of the subject square. The frontage of the subject square along both North Capitol and O Streets is subdivided into sixteen or seventeen foot wide lots and developed with rowhouse type structures. A number of the lots are vacant, and a number of the structures in the block are boarded up.
4. Across New York Avenue to the south are a McDonalds Restaurant, car wash, parking garage, auto parts store and oil company. Across O Street to the north is a parking lot.
5. The subject property is improved with a two story plus basement brick rowhouse type structure. The building is presently vacant, having been gutted by a fire.
6. The applicant proposes to renovate the building for use as a flat. The basement would contain a one bedroom apartment, while the upper two floors would contain a three bedroom unit.
7. There is no record of a Certificate of Occupancy having been issued for the subject building. The design of the building indicates that it was likely used as a single-family dwelling, which does not require a Certificate of Occupancy.

8. The Regulations provide that residential uses in existence when the C-M-3 District was mapped may continue as permitted uses. A new residential use is not permitted, and the applicant therefore needs a use variance to establish the flat

9. The subject property is not suitable for use for a commercial or industrial purpose permitted in a C-M-3 District. The only suitable use for the premises is for some kind of residential use.

10. The applicant testified at the hearing that it would not be economically feasible to renovate the building for use as a single family dwelling. The applicant submitted cost figures for the record, documenting the amount necessary to rehabilitate the building.

11. The majority of the subject square is now used for residential purposes to those permitted in the R-4 District, which is located one block away west of North Capitol Street. The Board finds that denial of this application would prevent the upgrading of this particular building, and would preclude its use for a residential purpose, for which the building was originally built.

12. There was no report from Advisory Neighborhood Commission 5C.

13. There was no opposition to the application.

#### CONCLUSIONS OF LAW AND OPINION

Based on the findings of fact and the evidence of record, the Board concludes that the requested variance is a use variance, the granting of which requires the showing of an exceptional or extraordinary condition of the property which creates an undue hardship for the owner. The Board concludes that the size of the subject site, combined with the nature of the improvements presently on the site, do create such a hardship for the owner. The Board concludes that there is no reasonable commercial or industrial use to which the subject premises can be put. The Board further concludes that denial of the application is not warranted, since residential use is compatible with the existing uses of the building in that block, and approval of the application will result in the upgrading of the subject site and constitute positively to the area.

The Board notes that this is the only square in this general area zoned for industrial use that is actually developed

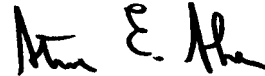
for and used for residential use. The Board further notes that it had before it another application for residential use in this same block heard and decided at the same meeting as the subject use. The Board believes that this block should be considered by the Zoning Commission for possible rezoning to R-4 or some other appropriate residential district, to more accurately reflect existing conditions in this block.

The Board concludes that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Maps. It is therefore ORDERED that the application is GRANTED.

VOTE: 4-0 (Walter B. Lewis, Charles R. Norris and Connie Fortune to grant, William F. McIntosh to grant by proxy, Leonard L. McCants not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: 30 SEP 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.